

**Resolution of Comments**  
**Management Directive and Handbook 8.9**

**Accident Investigation**

The following organizations responded to the June 28, 2004, memorandum requesting review and comments of the proposed revision of Management Directive (MD) and Handbook 8.9, "Accident Investigation:"

Office of General Counsel (OGC)  
Office of the Inspector General (OIG)  
Office of Nuclear Reactor Regulation (NRR)  
Office of Nuclear Regulatory Research (RES)  
Office of Nuclear Material Safety and Safeguards (NMSS)  
Region I  
Region II  
Region III  
Region IV

The following section provides feedback or comments received from the other offices and regions, and their resolution.

**Office of General Counsel**

Comment

No legal objection to the revision.

**Office of the Inspector General**

Comment 1

Directive, Section 8.9-04, Paragraph (1): It would be helpful if the criteria for selection of an NRC employee were included in this section.

Directive, Section 8.9-04, second full paragraph: Suggest inclusion of required criteria, as well as, the optional.

Handbook, paragraphs (C)(4) and (D)(1): It would be helpful to add specific criteria which is expected to be included.

Response

Disagreed. The current language was reviewed and judged to be clear. Additional specificity in criteria could both reduce the flexibility for selecting group members and result in unnecessary complexity in this document.

Comment 2

Directive, Section (051): Add all Accident Response Group (ARG) members, including the Director, appointed from outside NRC.

Response

Agreed. A corresponding change was made in the section.

Comment 3

Handbook, paragraph (15): Add a provision to identify Tribes who may be a source of personnel.

Response

Agreed. A corresponding change was made in the section.

**Office of Nuclear Reactor Regulation**

Comment

No comments.

**Office of Nuclear Regulatory Research**

Comment

No comments.

**Office of Nuclear Material Safety and Safeguards**

Comment 1

NMSS recommends combining MD 8.9 with MD 8.3, "NRC Incident Investigation Program," into a single Management Directive (MD) that would cover the full range of options for incident investigation. Except for Commission-level responsibilities and a larger contingent of non-NRC participants, the ARG does not appear to differ substantially from the Incident Investigation Team (IIT) framework described in MD 8.3.

Response

Combining MD 8.9 with MD 8.3 is impractical for this revision. However, NSIR agrees that making a single MD to cover all options for incident investigation could increase overall program efficiency. NSIR will consider combining MD 8.9 and MD 8.3 in future revisions.

Comment 2

MD 8.9 should be modified to comport with and advance implementation of National Response Plan (NRP) and National Incident Management System (NIMS). The proposed MD should emphasize a graded approach that tailors the scope and method of investigation to the significance of the incident. MD 8.9 Handbook Part I (B), "Responsibilities," should be modified to indicate that the Director of the Office of Nuclear Security and Incident Response (NSIR) is responsible for preparing NRC reports to the Department of Homeland Security (DHS) on NIMS compliance related to training and certification and for incident/accident investigations lessons learned.

Response

This recommendation is judged to be beyond the scope of the revision. The NRP and NIMS both deal with domestic incident response, whereas MD 8.9 deals with post-accident investigation. However, the language and terms adopted into NRC procedures due to implementation of the NRP have been incorporated into MD 8.9 where applicable.

Comment 3

MD 8.9 should be modified consistent with the updated NRC Strategic Plan. The second sentence in Section 8.9-01, "Policy," should describe an operational event that "...poses a significant hazard to public health and safety, security, or the environment..." Section 8.9-02, "Objectives," should correlate explicitly to the goals (safety, security, openness, effectiveness, and management effectiveness) of the updated Strategic Plan.

Response

NSIR agreed on the first recommendation and the corresponding change was made. For the second one, the current objectives are generally consistent with the updated NRC Strategic Plan performance goals; therefore, no changes are necessary.

Comment 4

NMSS recommends that a definitions Section (integrating Section 8.9-04 in MD 8.9 and Part I of MD 8.3) be developed to clarify incident-related terminology including: incidents of national significance (from NRP), operational events of extraordinary safety significance (from MD 8.9), extraordinary nuclear occurrence (Subpart E of 10 CFR Part 140), significant operational event (from MD 8.3), accident, event and incident. NMSS recommends the following detailed points be clarified:

- a. The definitions of IIT and Augmented Inspection Team (AIT) in Section 8.9-04 appear to have been copied verbatim and refer improperly to Parts II and III of the MD 8.3 Handbook in discussing a "significant operational event."
- b. Some events noted as being events extraordinary safety significance (e.g., severe damage to a significant fraction of a reactor core, major criticality accident, etc.), in Section 8.9-04, could be considered accidents. Also, the International Atomic Energy Agency's (IAEA's) Code of Conduct should be cited as a resource.
- c. The NRP definition of "incidents of national significance" should be used to expand upon the limited reference to security and safeguards provided in the Section 8.9-04 example.

Response

Clarification has been made to MD and Handbook 8.9.

Comment 5

NMSS recommends that MD 8.9 Handbook Part I (B)(5), "Director, NMSS," be modified to include responsibilities related to transportation events/incidents. Responsibility for import/export of special nuclear material should also be clarified in accordance with 10 CFR 1.42.

Response

Disagreed. The current language, i.e., materials-related events, broadly captures the types of events recommended.

## **Region I**

### Comment 1 (General)

Since an Accident Review Group (ARG ) would likely be led by a non-NRC employee, NRC may need to consider the process under Federal Advisory Committee Act (FACA) provisions.

### Response

NSIR concurs with Region I on this comment, but inclusion of the FACA provisions was judged to be unnecessary.

### Comment 2 (General)

This MD is specific to ARGs. Adding description of IITs, AITs, and Special Inspections may be confusing. We suggest that it be removed.

### Response

Agreed.

### Comment 3 (General)

The MD discusses "licensed facilities," not "licensed activities." Some licensed materials activities do not take place at a licensed facility. It might be useful to change the wording to say licensed activities or facilities.

### Response

Agreed. "Licensed facilities or activities" replaced "licensed facilities" in each occurrence.

### Comments 4 and 5

Directive 8.9; Definitions - the descriptions of IIT and AIT were taken from MD 8.3 and the references to Parts II and III do not apply.

Directive 8.9; Definitions - consider deleting descriptions of IIT, AIT, and special inspection team (SIT), and calling the Event of Extraordinary Safety Significance an ARG.

### Response

Agreed. The descriptions of IIT, AIT and SIT in Directive 8.9 were deleted.

### Comment 6

Directive 8.9; Definitions - it is not clear what an "Event of Extraordinary Safety Significance" is. This description follows the description of Special Inspection in the Definitions section which implies that it has less safety significance than a Special Inspection. It appears to actually be the definition of an ARG.

### Response

See response for comments 4 and 5 above. The description of Special Investigation was removed from the Definitions section.

### Comment 7

Handbook 8.9; Part 1; Responsibilities; B6f - not only would a Confirmatory Action Letter be appropriate, an Order might be necessary.

Response

The comment is valid; however, NSIR finds it is unnecessary add any additional language on an Order since an Order is highly likely to be considered even beyond the scope of this Management Directive.

Comment 8

Handbook 8.9; Part 2; Conduct of an Accident Investigation - two procedures referenced, NUREG-1303 and Incident Response Operations Procedure No. 12, should be made easier to locate. We tried searching Agencywide Documents Access and Management System (ADAMS) for the documents, along with the NRC's website (internal and external) and the Region 1 (RI) library, without success.

Response

Agreed. The two documents, which are to be updated, have been added to the ADAMS. After the updates, access to these documents will be further enhanced using, for example, the NRC website.

**Region II**

Comment

No comments.

**Region III**

Comment

No comments specific to the revision.

Note: Region III recommended the following for the future revisions

“In future revisions as the NRP becomes implemented, we recommend considering the NRP and its assignment of responsibilities that may impact our post-incident review program. As identified in MD 8.9, an NRC licensee may have an accident that rises to the level of an incident of national significance or any incident for which the DHS is involved. For those incidents, our post-incident investigations may need to be closely coordinated with DHS, particularly if the scope of our investigation includes an assessment of the offsite emergency response of State, local, or other Federal agencies.”

Response

The future revision will consider the NRP and its assignment of responsibilities relevant to the agency's post-incident investigation program.

## **Region IV**

### Comment

Region IV has reviewed the proposed revision of MD and Handbook 8.9, "Accident Investigation," and does not have substantive comments with respect to the proposed revisions.

Notwithstanding, we do have a comment on the existing MD 8.9 handbook that also applies to MD 8.3. Currently, the definition for Special Inspection in Section 8.9-04 states that "The SIT reports directly to the appropriate regional administrator." Region IV recommends that MD 8.9 be revised to allow SITs to report to the regional administrator or his/her designee. This would enable the regional administrator to delegate this activity to the appropriate division director and would bring better alignment to how special teams are managed by NRC. For example, MD 8.9 states that incident investigation teams (IITs) report to the Executive Director for Operations and augmented inspection teams (AITs) report to the appropriate regional administrators. If this recommended revision is adopted, Management Directive 8.3, "NRC Incident Investigation Program," would also need to be revised to incorporate this change.

### Response

Agreed. The information on and reference to MD 8.3 have been clarified in MD and Handbook 8.9 to eliminate the discrepancy.